
(2011) 04 PAT CK 0008

In the Patna High Court

Case No : Criminal Appeal (SJ) No. 102 of 1995

Taslim Mian and Others

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 21-04-2011

Acts Referred:

Penal Code, 1860 (IPC) — Section 147, 323, 324, 380, 436

Citation : (2011) 04 PAT CK 0008

Hon'ble Judges : Anjana Prakash, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Anjana Prakash, J.—All the Appellants have been convicted u/s 436, 380, 147 I.P.C. and sentenced to rigorous imprisonment for 3 years, 2 years and 1 year respectively and in addition Appellant Nos. 1 and 3 have been convicted u/s 324 I.P.C. and sentenced to 2 years rigorous imprisonment whereas rest of the Appellants have been convicted u/s 323 I.P.C. and sentenced to 6 months rigorous imprisonment by the learned Ist Additional Sessions Judge, Sitamarhi in Sessions Trial No. 127/88 by the judgment dated 21.6.1995.

2. The prosecution case is that on 5.11.1985 an altercation arose between the parties where after the accused persons came in a mob of about 20 persons variously armed and assaulted the prosecution and also set fire on the shop of Jamadar Singh.

3. The defence of the Appellants was that this case was in fact a counter blast of a case instituted earlier vide Riga P.S. Case No. 132/85.

4. The prosecution examined 11 witnesses out of whom P.W. 1, 2, 3, 8 and 9 are eye-witnesses whereas P.W. 6 is the doctor who examined the injured. P.W. 12 is the Investigating Officer. P.W. 4 and 5 even though were First Information Report named witnesses they did not support the case of prosecution.

5. On going through the evidence of these material witnesses, I find that the witnesses materially developed the prosecution case and even though they were only 11 persons named, initially in the First Information Report more because persons were added by them which substantially puts the prosecution case to doubt.

6. Further even though the injured are supposed to have sustained injuries at 8 a.m. in the morning, they were examined only between 6:00 p.m. to 7:30 p.m. which creates a doubt about the manner of occurrence in which an assault had taken place and the accused persons who had participated in the occurrence. None of the witnesses have explained the counter version of the occurrence which gives this Court an impression that the true story of the occurrence has not been brought before the Court by the prosecution.

7. In the result, the appeal is allowed and the order of conviction and sentence passed against the Appellants by the learned Ist Additional Sessions Judge, Sitamarhi in Sessions Trial No. 127/88 by the judgment dated 21.6.1995 are hereby set aside and they are acquitted of their respective charges. The Appellants are discharged for the liabilities from their respective bail bonds.